

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1518 of 1979

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

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BHUPENDRAKUMAR SAGARMAL

Versus

HIRALAL RAMESHCHANDRA  
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Appearance:

MR KB PADIA for Petitioner

NOTICE SERVED for Respondent No. 1  
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CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 24/03/2000

ORAL JUDGEMENT

Being aggrieved by the judgment dated 26.2.1969  
passed in Civil Suit No. 3273/75 by the City Civil  
Court, Ahmedabad, the appellant, original defendant, has  
approached this court.

2. The facts pertaining to the case in a nutshell are as under:-

3. For sake of convenience, parties to the litigation have been described as they have been arrayed in the suit. The plaintiff filed a suit to recover a sum of Rs. 3985.75 with future interest thereon at the rate of 15% from the date of the suit against the defendant. According to the plaintiff, the said sum was payable by the defendant to the plaintiff as the defendant had purchased cloth from the plaintiff. In spite of demand, as the defendant did not make the payment, the plaintiff was constrained to file the said suit against the defendant.

4. The defendant had filed a written statement in the suit raising several contentions. The most important contention was with regard to jurisdiction of the City Civil Court, Ahmedabad. It was submitted by the defendant that the defendant was residing at Jabua, Madhya Pradesh and, therefore, the City Civil Court, Ahmedabad, had no jurisdiction to try the suit as the defendant was not a resident of Ahmedabad. He had prayed that the suit should be dismissed for want of jurisdiction.

5. After considering the pleadings, the following issues were framed by the trial court at Exh. 23.

- (1) Is the plaintiff a proprietary firm or a partnership firm?
- (2) Has this court no jurisdiction to hear the suit?
- (3) Is the plaintiff entitled to interest? If yes, at what rate?
- (4) What is due?
- (5) Is the plaintiff entitled to charge travelling expenses?
- (6) What decree and order?
- (7) Is the suit barred by limitation?

The trial court had ultimately decreed the suit by holding that the court had jurisdiction to try the suit and the suit amount was payable by the defendant to the plaintiff.

6. I have heard learned advocate Shri Padia who has vehemently argued mainly on the ground that the City Civil Court, Ahmedabad, had no jurisdiction to try the suit and, therefore, the suit ought to have been dismissed for want of jurisdiction. It has been mainly submitted by him that as the defendant was residing at Jabua, Madhya Pradesh, and as he was not residing within the jurisdiction of the City Civil Court, Ahmedabad, the suit could not have been entertained.

7. I have heard learned advocate Shri Padia and have also perused the record and proceedings pertaining to the suit. Upon perusal of the R&P pertaining to the case, it is pertinent to note that though the parties to the litigation had entered into a contract with regard to purchase of cloth for the first time at Jabua, the defendant had visited Ahmedabad very often. It is clear that the defendant had signed some of the documents at Ahmedabad in presence of independent witnesses. It also appears that some of the transactions had been entered into at Ahmedabad. Thus, it is clear that the transactions entered into between the parties had taken place at Jabua in Madhya Pradesh as well as in Ahmedabad.

8. It has been submitted by learned advocate Shri Padia that as the first transaction had taken place between the parties at Jabua, the City Civil Court, Ahmedabad, had no jurisdiction to entertain the suit.

9. I do not find any substance in the submission made by learned advocate Shri Padia for the reason that number of transactions had been entered into between the litigants. It is true that the first transaction had taken place at Jabua which is outside Gujarat, but it is also a fact that subsequent transactions had taken place at Ahmedabad. Thus, some of the transactions had taken place at Ahmedabad and, therefore, part of the cause of action had also arisen in Ahmedabad. As cause of action had also arisen in Ahmedabad, it was open to the plaintiff to file a suit in City Civil Court at Ahmedabad and it was not obligatory on the part of the plaintiff to file a suit in Madhya Pradesh where the defendant resides as it is always open to the plaintiff to file a suit at the place where the defendant resides or at the place where the cause of action had arisen.

10. Looking to the above referred legal position and the findings arrived at by the trial court to the effect that some of the transactions between the parties had taken place at Ahmedabad and as the defendant had also executed some of the documents at Ahmedabad, it cannot be

said that the trial court had committed any error by entertaining the suit.

11. In view of the above referred settled legal position and the factual position ascertained by the trial court, I do not think that there is any substance in what has been submitted by learned advocate Shri Padia. In the circumstances, I do not find any substance in the appeal and the appeal is dismissed with no order as to costs.

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